

CONTRACTOR ARRA CONTRACT PROVISIONS AND REPORTING REQUIREMENTS

The Contractor agrees to comply with the following provisions. Failure to comply with any or all of the provisions herein may be cause for the Contracting Agency (Agency) or the North Carolina Department of Transportation (Department) to issue a cancellation notice to the Contractor.

The Contractor is hereby notified that this project will be financed in whole or part with *American Recovery and Reinvestment Act of 2009 (ARRA)* Funds. The Contractor shall assure that all subcontracts, and other contracts for services for an ARRA funded project shall also have the mandated provisions of this directive in their contracts. Pursuant to Title XV, Section 1512 of the ARRA, the Agency shall require that the Contractor to provide reports and other employment information as evidence to document the number of jobs created and/or jobs retained by this contract from the Contractor's own workforce and any subcontractors. No direct payment will be made for providing said reports as the cost for same shall be included in the various items in the contract.

- (1) **INTEGRITY:** The Contractor agrees that all data submitted to the AGENCY, NCDOT, FTA in compliance with the Recovery Act requirements will be accurate, objective, and of the highest integrity.

Posting with the Local Employment Security Commission

In addition to any other job postings the Contractor normally utilizes, the Office of Economic Recovery & Investment (hereinafter, "OERI") requires that the Contractor shall post with the local Employment Security Commission Office, all positions for which he intends to hire workers as a result of being awarded this contract. Labor and semi-skilled positions must be posted for at least 48 hours before the hiring decision. All other positions must be posted a minimum posting of five days before the hiring decision. The Contractor and any Subcontractor shall report the new hires in the manner prescribed by the Employment Security Commission and the OERI. The NC ESC Homepage can be found at www.ncesc.com.

Required Contract Provision to Implement ARRA Section 902

Section 902 of the American Recovery and Reinvestment Act (ARRA) of 2009 requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

- (1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) to interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights as provided under Section 902 of the ARRA with respect to this contract, which is funded with funds made available under the ARRA. Section 902 further states that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Authority of the Inspector General

Section 1515(a) of the ARRA provides authority for any representatives of the Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

Office of State Budget and Management Access to Records

OERI requires that the Contractor and Subcontractor agree to allow the Office of State Budget and Management internal auditors and state agency internal auditors access to records and employees pertaining to the performance of any contract awarded by a public agency.

Buy America Provision

Section 1605 of the ARRA requires that iron, steel and manufactured goods used in public buildings or public works projects must be manufactured in the United States. The Contractor agrees to abide by this provision and shall maintain records of such purchases for inspections by authorized agents of the State of North Carolina and federal agencies.

Wage Rate Provision (applies to all construction, alteration or repair projects)

Section 1606 of the ARRA requires that all laborers and mechanics employed by Contractors and Subcontractors with funds from the ARRA shall be paid wages at rates not less than the prevailing wage rate under the Davis-Bacon Act. The Contractor agrees that be the submission of a proposal/bid in response to a solicitation funded in whole or in part with recovery funds, continuous compliance will be maintained with the Davis-Bacon Act. This applies to all construction contracts that exceed \$2,000.

Availability and Use of Funds

Contractors understand and acknowledge that any all payment of funds or the continuation thereof is contingent upon funds provided solely by ARRA or required state matching funds. Pursuant to Section 1604 of the ARRA, contractors agree not to undertake or make progress toward any activity using recovery funds that will lead to the development of such activity as casinos or other gambling establishments, aquariums, zoos, golf courses, swimming pools or any other activity specifically prohibited by the Recovery Act.

Outsourcing outside the USA without Specific Prior Approval Provision

Contractor agrees not to use any recovery funds from a contract or any other performance agreement awarded by the State of North Carolina, its agencies, or political subdivisions for

outsourcing outside of the United States, without specific prior written approval from the agency issuing the contract.

Federal, State and Local Tax Obligations

By submission of a proposal, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds.

Anti-Discrimination and Equal Opportunity

Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of funds.

Reports of Fraud or Waste

Contractors must report to the Inspector General any suspected incidence of waste, fraud and abuse related to ARRA funds, and should notify FTA regional offices of any problems encountered as they occur.

Whistleblower Provisions

Contractors understand and acknowledge that Article 14 of Chapter 124, NCGS 126-84 through 126-88 (applies to the State and state employees), Article 21 of Chapter 95, NCGS 95-240 through 95-245 (applies to anyone, including state employees), and Section 1553 of the Recovery Act (applies to anyone receiving federal funds), provide protection to State, Federal and contract employees.

Contractors or Agencies cannot discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, made to the Recovery Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency or their representative, information that the employee reasonably believes is evidence of:

- gross mismanagement of an agency contract or grant relating to covered funds;
- a gross waste of covered funds;
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds*.

*covered funds: "any contract, grant, or other payment received by any non-federal employer if a) the Federal Government provides any portion of the money or property

that is provided, requested or demanded; and b) at least some of the funds are appropriated or otherwise made available by this Act” 1553 (g)(2).

Contractor agrees to post notice of the rights and remedies as required by the ARRA.

Emblems

The Contractor agrees to use signs and materials that display both the American Recovery and Reinvestment Act (Recovery Act) emblem and the Transportation Investment Generating Economic Recovery (TIGER) program emblem to identify its Project(s) financed with Recovery Act funds as directed by NCDOT. This provision is to be included in any subagreements, leases, third party contracts, or other similar documents used in connection with its Recovery Act Project(s).

CONTRACTOR RESPONSIBILITIES AND REPORTING REQUIREMENTS UNDER ARRA

Contractors are required to complete projects or activities which are funded under the ARRA and to report on use of the funds provided through this award as directed. Information from these reports will be made available to the public.

Contractors are not responsible for reporting ARRA requirements directly to FTA. The Contractors responsibilities for reporting are as follows:

ARRA Section 1512

- Obtaining a D-U-N-S number or the Contractor may use their name and zip code of their Headquarters.
- Expenditure amount (amount of payment)
- Expenditure description (what was exchanged for the payment)
- A brief description of the types of jobs created and jobs retained. “Jobs or positions created” mean those new positions created and filled, or previously existing unfilled positions that are filled, as a result of Recovery Act funding. “Jobs or positions retained” mean those previously existing filled positions that are retained as a result of Recovery Act funding.
- An estimate of the number of jobs created and jobs retained. At a minimum, this estimate shall include any new positions created and any existing filled positions that were retained to support or carry out Recovery Act projects. The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule.
- A job cannot be reported as both created and retained.
- This information must be reported on a quarterly basis, due to the Prime Recipient within 3 days after the end of the quarter.

ARRA Section 1201 (c)

- This data will be required **monthly until September 2012 or until the contract is complete** and reported to the Prime Recipient within 3 days after the end of the month.

- Contractors will need to report the number of direct on-site job hours associated with the ARRA funds awarded as of the end of the reporting period.
 - Contractors will not be expected to estimate employment data other than the direct on-site jobs (for example, construction workers building a maintenance facility, or transit agency workers doing preventive maintenance). DOT economists will compute the number of indirect jobs (for example at bus manufacturing plants) or induced jobs (for example, jobs at suppliers or in unrelated industries as a result of the money flowing through the economy.)
- Contractors and consultants will need to provide the required information for their own workforce as well as the workforce of all subcontractors that were active on their ARRA funded project(s) for the reporting month. **These reports are required monthly until the contract is completed or September 2012 whichever occurs first.**

CONTRACTOR CERTIFICATION

The **Contractor** hereby agrees to comply with the Contract Provisions and Reporting Requirements as indicated in the American Recovery and Reinvestment Act of 2009 and any amendments thereto. The **Contractor** also agrees to comply with any additional reporting requirements that may be requested by NCDOT, FTA, USDOT, the Inspector General (IG), the Government Accountability Office (GAO), or other entities, for example Congressional committees or individual members of Congress. The **Contractor** hereby agrees to inspections or audits that may occur at any time from the any of the above referenced federal or state agencies. **Contractors** are requested to provide a copy of any such reports to NCDOT on any responses to such requests for information or as a result of an inspection or audit.

The Contractor, _____, hereby certifies and affirms to the truthfulness and accuracy of each of the above statements of this certification.

Date

Signature of Contractor's Authorized Official

Name and Title of Contractors Authorized Official

Subscribed and sworn to before me this ____ day of _____, 20____, in the State of _____;
and the County of _____.

Notary Public _____
My Appointment Expires _____